

# CANADIAN RAILWAY OFFICE OF ARBITRATION

## CASE NO. 1102

Heard at Montreal, Tuesday, June 14, 1983

Concerning

### ONTARIO NORTHLAND RAILWAY

and

### CANADIAN BROTHERHOOD OF RAILWAY, TRANSPORT AND GENERAL WORKERS

#### **DISPUTE:**

Claim of spare employee Mrs. D. Joannis for 12 hours' pay for December 12, 1982.

#### **JOINT STATEMENT OF ISSUE:**

When Mrs. Joannis did not accept a run when called for duty on November 29, 1982 she was held off of the spare list for the duration of the run. This resulted in her not being first out for a run on December 1, 1982.

The employee grieved that she had "just cause", under article 7.1, for not accepting the November 29th run and that she should not have been held off of the spare list. A claim for 12 hours' pay the value of the trip missed on December 1, 1982, was denied by the Company.

#### **FOR THE BROTHERHOOD:**

**(SGD.) T. N. STOL**  
REPRESENTATIVE

#### **FOR THE COMPANY:**

**(SGD.) P. A. DYMENT**  
GENERAL MANAGER

There appeared on behalf of the Company:

A. Rotondo                   – Manager Labour Relations, North Bay  
J. H. Singleton               – Manager Passenger Services, North Bay

And on behalf of the Brotherhood:

T. N. Stol                     – Representative, Don Mills

## **AWARD OF THE ARBITRATOR**

The grievor is a spare employee working on the spare list out of North Bay Terminal. On the day in question, she was first out on the list. She was called at 1710 for a train leaving at 1605. This was, of course, very short notice, but it had just been determined that an additional person was required to work the run. The grievor did not expressly refuse the call, but she did not accept it, indicating that she had company for dinner (her mother and sister), although she would have accepted had she been called by 1600.

Article 7 of the collective agreement is as follows:

A spare list shall be maintained consisting of the names of the number of senior unassigned employees required to protect stand-by and extra road service. The number of names on the spare list shall be regulated in accordance with traffic conditions in an endeavour to provide as closely as possible 160 hours per 4-week period to each employee. Such employee shall be called to perform stand-by or road service on the "first in, first out" principle. An employee failing, without showing just cause to the supervisor, to accept a run in his turn, shall be debarred from duty, without compensation, for the duration of the run which he failed to accept. When he is restored to duty, his name shall be shown at the bottom of the spare list.

The grievor in this case failed to accept a run in her turn. She would, therefore, properly be "debarred from duty" for the duration of the trip not accepted, unless it was shown to the supervisor that there was just cause. The determination of that issue should be made having regard to all of the circumstances. Here, while the call was at a late hour, and while the grievor was preparing dinner for her family, a possible late call for a spare employee, especially one standing first out, is one of the attributes of the position. I do not consider, in this particular case, that just cause for not accepting the call was shown. That is not to say that personal arrangements would not constitute just cause. They may well do so in some circumstances.

In any event, it may be noted that the grievor's earnings for the pay period were at least equivalent to what they had been in preceding pay periods. It has not been shown that any real loss suffered by the grievor was as great as that claimed.

For the foregoing reasons, the grievance is dismissed.

**(signed) J. F. W. WEATHERILL**  
**ARBITRATOR**